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LONDON NEWLINE SYNDICATE
7 1218; NEWLINE UNDERWRITING
MANAGEMENT LIMITED and
8 NEWLINE CORPORATE NAME
LIMITED (UK)

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

13 ASSERTIO THERAPEUTICS, INC.,

Case No.

14 Plaintiff,

**NOTICE OF REMOVAL OF
ACTION UNDER 28 U.S.C. §
1441(b) (DIVERSITY)**

15 v.

16 LLOYD'S OF LONDON NEWLINE
SYNDICATE 1218; NEWLINE
UNDERWRITING MANAGEMENT
LIMITED; and NEWLINE
CORPORATE NAME LIMITED (UK),

19 Defendants.

21 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

22 PLEASE TAKE NOTICE that Defendants LLOYD'S OF LONDON
23 NEWLINE SYNDICATE 1218; NEWLINE UNDERWRITING MANAGEMENT
24 LIMITED; and NEWLINE CORPORATE NAME LIMITED (UK) (collectively,
25 the "Newline Defendants") hereby remove to this Court the state court action
26 described below.

27 1. On July 16, 2021, Assertio Therapeutics, Inc. ("Plaintiff") filed an
28 action in the Superior Court of the State of California for the County of Alameda

1 1. On July 16, 2021, Assertio Therapeutics, Inc. (“Plaintiff”) filed an
2 action in the Superior Court of the State of California for the County of Alameda
3 entitled Assertio Therapeutics, Inc. v. Lloyd’s of London Newline Syndicate 1218,
4 *et al.*, Case No. RG21105379 (hereinafter, “State Action”). The State Action names
5 Lloyd’s of London Newline Syndicate 1218, Newline Underwriting Management
6 Limited and Newline Corporate Name Limited (UK) as Defendants. A true and
7 correct copy of the State Action (“Complaint”) is attached hereto as Exhibit “1.”

8 2. On July 28, 2021, Plaintiff caused copies of the Summons and
9 Complaint to be personally served on Alfonse Ziegler, Mendes & Mount LLP,
10 Lloyd's of London Newline Syndicate 1218's designated agent for service of
11 process. Attached hereto as Exhibit "2" is a true and correct copy of the Proof of
12 Service of Summons.

13 3. On July 28, 2021, Plaintiff caused copies of the Summons and
14 Complaint to be personally served on Alfonse Ziegler, Mendes & Mount LLP,
15 Newline Underwriting Management Limited's designated agent for service of
16 process. Attached hereto as Exhibit "3" is a true and correct copy of the Proof of
17 Service of Summons.

18 4. On July 28, 2021, Plaintiff caused copies of the Summons and
19 Complaint to be personally served on Alfonse Ziegler, Mendes & Mount LLP,
20 Newline Corporate Name Limited (UK)'s designated agent for service of process.
21 Attached hereto as Exhibit "4" is a true and correct copy of the Proof of Service of
22 Summons

JURISDICTION

24 5. This action is a civil action of which this Court has original jurisdiction
25 under 28 U.S.C. § 1332.

26 6. Furthermore, this action may be removed to this Court by the Newline
27 Defendants pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil
28 action between a citizen of a state within the United States and citizens of a foreign

1 country, and the matter in controversy exceeds the sum of \$75,000, exclusive of
2 interest and costs. There is complete diversity of citizenship between Plaintiff and
3 the Newline Defendants.

4 7. Depomed, Inc. was a corporation organized and existing under the laws
5 of the State of California, with its principal place of business in Newark, California
6 until August 14, 2018. Assertio Therapeutics, Inc., successor-in-interest to
7 Depomed, Inc., is organized under the laws of Delaware with its principal place of
8 business in Lake Forest, Illinois. [See Complaint at ¶ 25].

9 8. Plaintiff, Assertio Therapeutics, Inc., is, and at all relevant times herein
10 was, domiciled in the State of Illinois, County of Lake, and is therefore a citizen of
11 the State of Illinois. [See Complaint at ¶ 25; See *Coury v. Prot*, 85 F.3d 244, 251
12 (5th Cir. 1996)].

13 9. Plaintiff was a citizen of the State of Illinois both at the time the State
14 Action was filed and as of the date of this Notice of Removal.

15 10. At the time the State Action was filed and as of the date of this Notice
16 of Removal, Lloyd's of London Newline Syndicate 1218 was domiciled in London,
17 England, and is therefore a citizen of a foreign country.

18 11. At the time the State Action was filed and as of the date of this Notice
19 of Removal, Newline Underwriting Management Limited was domiciled in London,
20 England, and is therefore a citizen of a foreign country.

21 12. At the time the State Action was filed and as of the date of this Notice
22 of Removal, Newline Corporate Name Limited (UK) was domiciled in London,
23 England, and is therefore a citizen of a foreign country.

24 13. None of the Newline Defendants is a citizen of California, where the
25 State Action is pending.

26 14. In the State Action, Plaintiff seeks declaratory relief with respect to
27 Lloyd's of London Newline Syndicate 1218's alleged duty to defend Plaintiff, or,
28 alternatively, to reimburse Plaintiff's claim expenses, including attorneys' fees and

1 other defense costs and expenses, under the Excess Liability Insurance Policy that
2 Lloyd's of London Newline Syndicate 1218 issued to Depomed, Inc., bearing
3 number 1700920 (the "2017 Newline Policy"), with respect to over 280 underlying
4 opioid lawsuits brought against Plaintiff (the "Underlying Opioid Lawsuits") and all
5 future opioid lawsuits that will be filed. [See Complaint at ¶¶ 1, 23].

6 15. The 2017 Newline Policy includes a \$10,000,000 limit for "any one
7 Occurrence or all Occurrences of a series consequent upon one source or original
8 cause" and an aggregate limit of liability of \$10,000,000 for "any one Period of
9 Insurance in respect of liability arising from the Products."

10 16. Given the extraordinary costs to defend Plaintiff in the Underlying
11 Opioid Lawsuits, which currently exceed 280 lawsuits, and the 2017 Newline
12 Policy's \$10,000,000 limit of liability at issue in this case, the amount in
13 controversy exceeds \$75,000, the minimum amount for jurisdiction in this Court.

14 **INTRADISTRICT ASSIGNMENT**

15 17. Based on U.S. District Court Rules for the Northern District, Rule 3-
16 2(d), the Newline Defendants are informed and believe the Clerk will assign this
17 case to the San Francisco Division or the Oakland Division, as the State Action was
18 filed in Alameda County.

19 **REMOVAL**

20 18. The Newline Defendants hereby remove this action to the United States
21 District Court, Northern District, as the State Action was pending in the Superior
22 Court of the State of California, for the County of Alameda. Removal is timely as it
23 is within 30 days after Plaintiff caused the Newline Defendants to be served with the
24 Summons and Complaint in the State Action on July 28, 2021, and within one year
25 from the date the Complaint was filed on July 16, 2021.

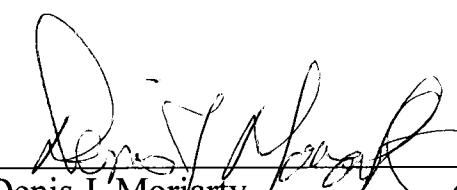
26 19. Attached hereto as Exhibit "5" are true and correct copies of the
27 following documents which were served on the Newline Defendants, along with the
28 Complaint: (a) Summons; (b) Civil Case Cover Sheet; (c) ADR Information Packet;

1 (d) Notice of Case Management Conference and Order; and (f) Notice of
2 Assignment of Judge for All Purposes. The attached documents represent all
3 notices, process and proceedings received or filed by the Newline Defendants, and
4 to their knowledge, no hearings or proceedings have taken place in the State Action.

5

6 Dated: August 27, 2021

HAIGHT BROWN & BONESTEEL LLP

7 By: 
8

9 Denis J. Moriarty

10 Gary L. LaHendro

11 Attorneys for Defendants, LLOYD'S OF
12 LONDON NEWLINE SYNDICATE 1218;
13 NEWLINE UNDERWRITING
14 MANAGEMENT LIMITED and
15 NEWLINE CORPORATE NAME
16 LIMITED (UK)

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

Assertio Therapeutics, Inc. v. Lloyd's Of London Newline Syndicate 1218, et al.
Case No.

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 555 South Flower Street, Forty-Fifth Floor, Los Angeles, CA 90071.

On August 27, 2021, I served true copies of the following document(s) described as
NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.D. SECTION 1441(B)
(DIVERSITY) on the interested parties in this action as follows:

Kevin M. Sadler
Ariel D. House
BAKER BOTTS LLP
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Palo Alto, CA 94304
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Attorneys for Plaintiff Assertio
Therapeutics, Inc.

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 27, 2021, at Los Angeles, California.

/s/ Monique Lopez
Monique Lopez